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Ken Tsurubayashi

KAN-105US

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04/01/2009

RATNERPRESTIA

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EXAMINER

LE, NANCY LOAN T

ART UNIT

PAPER NUMBER

3621

MAIL DATE

DELIVERY MODE

04/01/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



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## **DETAILED ACTION**

### ***Election/Restrictions***

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claims **1-27**, drawn to a license distribution method, classified in class 705, subclass 59.

Group II, claims **28-32**, drawn to a license distribution management system in which commodities is managed by linking a subscription commodity or a package commodity with a relevant license commodity, classified in class 705, subclass 52.

Group III, claims **33-42**, drawn to a license and contents provision method and system, classified in class 705, subclass 51.

Group IV, claims **43-46**, drawn to an electronic book display terminal, classified in class 725, subclass 142.

2. The inventions are independent or distinct, each from the other because:

3. Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP §

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806.05(e)). In this case the method may be practiced by a system without a client terminal.

**4.** Inventions I and III are related as subcombination and combination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because combination of claim 1 does not require attaching license contents linking data indicating linkage with said distributing contents and sending it to a client. The subcombination of claim 33 has separate utility such as distributing contents and its relevant license to a client via a network.

**5.** Inventions I and IV are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the method can be practiced by a system without an electronic book display terminal.

**6.** Inventions II and III are related as apparatus and process for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP §

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806.05(e)). In this case the method can be practiced by a system including a content distribution server.

7. Inventions II and IV are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different designs, modes of operation, and effects (MPEP § 802.01 and § 806.06). In the instant case, the different inventions are a license distribution system and an electronic book display terminal.

8. Inventions III and IV are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the method can be practiced by a system without an electronic book display terminal.

9. The Examiner has required restriction between combination and subcombination inventions. Where Applicant elects a subcombination, and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 C.F.R. §1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

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**10.** Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

- (a) the inventions have acquired a separate status in the art in view of their different classification;
- (b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;
- (c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);
- (d) the prior art applicable to one invention would not likely be applicable to another invention;
- (e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. §101 and/or 35 U.S.C. §112, first paragraph.

**11.** Applicant is advised that the reply to this requirement to be complete must include (i) an election of a invention to be examined even though the requirement may be traversed (37 C.F.R. §1.143) and (ii) identification of the claims encompassing the elected invention.

**12.** The election of an invention may be made *with* or *without* traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election

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shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 C.F.R. §1.144.

**13.** If claims are added after the election, Applicant must indicate which of these claims are readable on the elected invention.

**14.** Should Applicant traverse on the ground that the inventions are not patentably distinct, Applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the Examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. §103(a) of the other invention.

### ***Conclusion***

**15.** Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the examiner should be directed to NANCY LOAN T. LE whose telephone number is **(571) 272-7066**. The examiner can normally be reached on Monday - Friday, 9am - 6:00pm Eastern Standard Time.

**16.** If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ANDREW J. FISCHER can be reached on **(571) 272-6779**.

**17.** ***For official/regular communication***, the fax number for the organization where this application or proceeding is assigned is **(571) 273-8300**.

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**18. For informal/draft communication**, the fax number is **(571) 273-7066 (Rightfax)**.

**19.** Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866-217-9197 (toll-free)**.

NANCY T. LE  
Examiner, Art Unit 3621

/Calvin L Hewitt II/  
Supervisory Patent Examiner, Art Unit 3685